

## **Develop Procedures, Use Enforcement Powers to Increase Compliance**

Audit work found a minority of tow truck operators do not meet some of the described standards within the Tow Truck Act. Standards for business offices and storage yards are sometimes not followed. Some tow truck company satellite operations do not have required business offices. Some tow truck companies appear more than once on area rotational lists. While most tow truck companies comply, we found tow truck operators have little incentive to comply, as existing enforcement powers are not used.

### **Storage and Business Requirements**

To determine approximate levels of operator compliance to business and storage rules, visual observations were conducted on 35 qualified tow truck operations throughout Montana. For places of business, qualified tow trucks must provide:

- ♦ Secure storage, including a six-foot tall fence or indoor storage.
- ♦ Accessibility, located in a place that is reasonably convenient. This allows a member of the public to find their vehicle or to pay a bill. Tow truck operators are also required to provide a valid street address.
- ♦ Open during the business hours of 8 a.m. to 5 p.m., Mondays through Fridays.

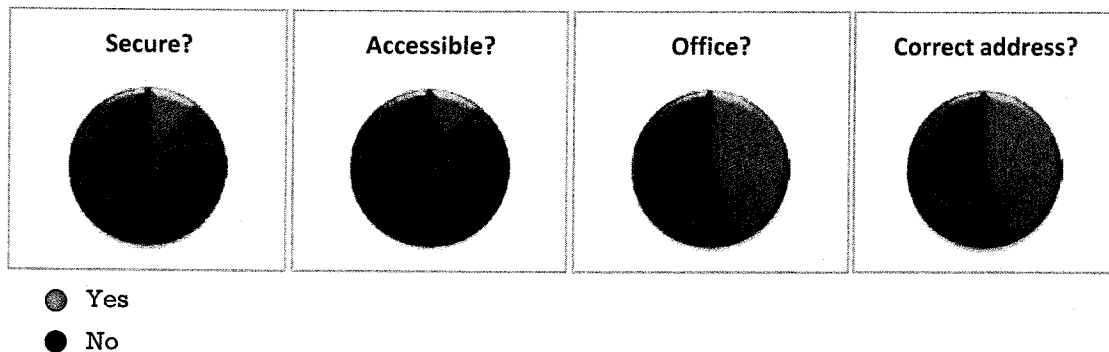
We measured compliance to four standards: Yard security, accessibility to the yard or business office, evidence that the business office was open, and if the tow truck company's address on file was accurate. The Tow Truck Act states that qualified operators "shall comply" with these standards in order to participate in the rotational system. We found compliance rates ranging from 60 to 80 percent.

While MHP troopers say they are familiar with many tow truck yards when they review vehicles involved in traffic accidents, the highway patrol does not consistently track compliance to these storage and business requirements. An exception was a MHP district office where troopers use a Wrecker Yard Inspection Report to report annual compliance to the standards discussed previously. Use of such a report does not appear to be the general practice statewide.

### **Satellite Offices**

The Tow Truck Act allows a tow truck operator to open a satellite office in another rotational area. According to law, the satellite office should match standards for business offices and storage yards: accessible, reasonably located and secure. Our analysis identified 19 satellite operations, although no official count exists. A sampling of nine satellite offices determined compliance to these statutory rules was lower than compliance to the standards for typical business offices, as shown in the following figure.

Figure 6  
Compliance Levels for Selected Satellite Operators



Source: Compiled by the Legislative Audit Division.

### Limit Owners to a Single Rotation Spot

The Tow Truck Act allows “one qualified tow truck operation for each owner...on a rotation area list” (§61-8-908(4), MCA). However, at least nine tow truck operators in two rotational areas have deviated from this law. In one such area, six owners hold 25 rotation spots, based on our review of applicable records. As a result, a few owners are likely getting a larger share of service calls in violation of state law. Another rotational area contains five companies of three individual owners (two owners have two companies each.) It was determined that those owners with two spots on rotation received twice as many calls from MHP dispatch.

The Tow Truck Act allows operators to share a storage yard, provided they submit individual accounting, insurance, tax, vehicle and address information. No operator has filed this paperwork. This definition of shared storage may allow owners to continue to propagate multiple rotation spots within an individual rotational area.

### Clarify MHP Enforcement Powers

The MHP can suspend a tow operator under limited circumstances. The following table shows which aspects of the Tow Truck Act have associated administrative rules allowing for sanctions to enforce compliance.

EXHIBIT NO. 1DATE: 3-15-2011BILL NO. HB 523

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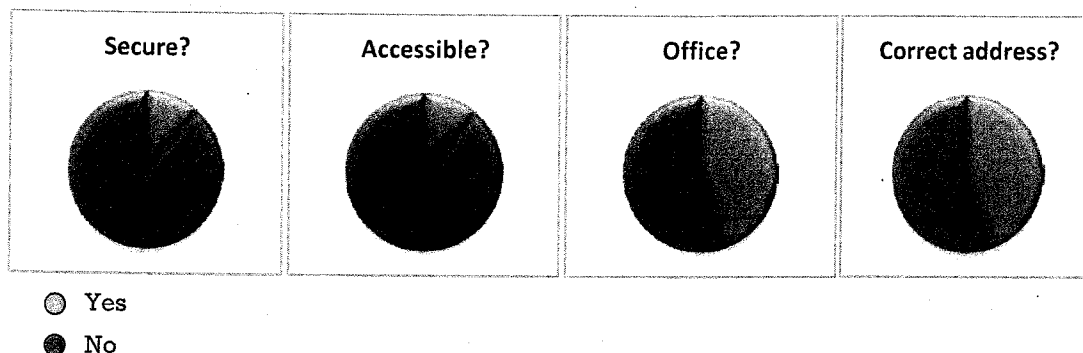
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